

CITY OF NEWBERG CITY COUNCIL MINUTES
MAY 3, 2010
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET

Work Session was held prior to the meeting. A discussion was held on the utilities bill assistance program. No decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:06 PM.

II. ROLL CALL

Members

Present:	Mayor Bob Andrews	Denise Bacon	Stephen McKinney
	Bart Rierson	Marc Shelton	Wade Witherspoon

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Barton Brierley, Planning and Building Director	Brooks Bateman, Building Official
	Howard Hamilton, Public Works Director	Jennifer Nelson, Recording Secretary

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, gave updates on the situation with the beavers building dams in a culvert, but as they have moved upstream there will not be any further action at the moment; he gave instructions to continue business as normal even though the City Recorder has gone on leave as her emails and calls are being covered; he announced the City Council video reports have been caught up on youtube.com and on the Council facebook page; the 2nd Street project is underway and a road closure is expected midweek as negotiations continue with the property owner to the south for right of way; and finally, the new Animal Shelter design review with the contractor will be coming up in the middle of the month.

V. PUBLIC COMMENTS

None.

VI. CONSENT CALENDAR

Consider a motion approving **City Council Minutes** for March 15, 2010, and April 5, 2010.

MOTION: Shelton/Rierson approving the Consent Calendar including the City Council Minutes for March 15, 2010, and April 5, 2010 as amended. (6 Yes/0 No/1 Vacant) Motion carried.
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VII. PUBLIC HEARING

Consider a motion approving **Ordinance No. 2010-2725** amending the Administrative Building Code providing for issuance of civil penalties for violations, and using the current International Code Council Building Valuation Data Tables.

TIME – 7:13 PM

Mayor Andrews called for any conflicts of interest or abstentions; none appeared.

Mr. Barton Brierley, Planning and Building Director and Mr. Brooks Bateman, Building Official, presented the staff report (see official meeting packet for full report).

Councilor Wade Witherspoon asked if the appeals fees are refundable. Staff discussed violations being appealed without reason which would be determined by a hearings officer; if there is a real basis for the appeal then whether they win or lose the fee can still be refunded. Any further appeals would have to go through the circuit court to be determined if reasonable.

Mr. Bateman added in the last seven years he has never written a citation for a building code violation. Staff said it is to cover the city if there is an egregious violation with non-compliance; it will be as a last resort and not anticipated to be frequently used.

Mayor Andrews asked if this was something that automatically updates or if it would be coming to City Council on an annual basis. Staff replied it would update automatically; the statute requires an appeal process to be in place if the building official issues a civil penalty for a compliance violation. The building code has no specific statement of procedure, any violation other than those spelled out uses a uniform violation method.

Councilor Marc Shelton asked if the language added to the code came from the Oregon League of Cities (LOC) and if there were any changes. Staff replied the language came from the LOC and was only modified to personalize it to Newberg; it is all new language in Newberg Code.

Mayor Andrews asked about the State surcharge. Staff replied it was 12% for funding the Building Code Division (BCD).

Councilor Shelton asked if the State amount is updated and if it can go higher. Staff said the percentage does not change, although the number may.

Councilor Stephen McKinney asked if this stays similar from city to city. Staff replied the same method is used for every city although the percentage may be higher or lower based on evaluation.

Mayor Andrews opened and closed public testimony as no one appeared to speak. Staff recommended adopting the ordinance.

MOTION: Rierson/McKinney approving Ordinance No. 2010-2725 amending the Administrative Building Code providing for issuance of civil penalties for violations, and using the current International Code Council Building Valuation Data Tables, read by title only. (6 Yes/0 No/1 Vacant) Motion carried.

VIII. COUNCIL BUSINESS

TIME – 7:40 PM

Mayor Andrews announced Councilor McKinney would be filling the vacancy left by Bob Larson's resignation as the Council representative on the Newberg Urban Area Management Commission (NUAMC).

Councilor Witherspoon asked for an update on the process for filling the District #6 Council vacancy and what to do if he knows someone he would highly recommend in that district. Staff replied advertising has taken place and letters sent to each registered voter in District #6, applications are due May 21, 2010, and the qualified applicants will come to City Council on June 21, 2010; it will be up to Council to appoint someone from that pool to go into effect at the first meeting in July or elect to re-advertise at that meeting. Staff recommended that personal contacts should be encouraged to fill out an application.

Councilor Bart Rierson spoke about the need to solicit a petition if that person wishes to run for election and wondered if Council could require those applying for appointment to have that petition prior to appointment.

Discussions followed that Council could require applicants to have twenty-five people sign a petition of support to fill the vacancy but changes to the charter would have to be made and those names would not be allowed to be used as part of their petition for election because those signatures cannot be collected until June. Also, the letters and notices have already been sent. Council also spoke of whether or not they wished to have someone appointed who is also applied to run because they may have an unfair advantage; or would it be better because then time would not be spent on training after the election if the appointed member has already been serving. Since the vacancy has already been advertised, it was discussed to maybe take the signature provision under consideration for when the next vacancy occurs.

Mr. Mahr discussed developing a community benefit agreement/development agreement concerning "big box" or large scale retail development as a method of gaining community support since there are conditions the city cannot impose on developers. It would be a tool for making trade-offs and a way to mediate between the City, the community, and the developer.

Councilor Denise Bacon felt this would be a great conversation to have prior to any large scale developers knocking on the door; she felt it was a great idea to pursue.

Mr. Mahr announced they would be adding an Executive Session to the May 17, 2010, meeting to discuss the Grum case before the oral argument on May 24, 2010, to outline the oral argument and get feedback.

Councilor McKinney asked if showing up to the hearing was a violation of Council rules. Mr. Mahr stated it was not because they would not be conducting council business if they just appeared.

Mr. Danicic followed up on the Chamber of Commerce's request for Council to consider allocating a percentage of the Hotel Tax revenue for the Visitor's Center; he asked for clear direction for staff.

Discussions followed about supporting the request but discussing different options such as Councilor McKinney's desire to have a clear division of chamber money for business licenses paying for things that benefit businesses directly and tourist related items being paid for by the Transient Room Tax. Councilor Witherspoon suggested not giving the full 25% requested, but maybe only 22% with the other 3% being reserved for other projects; Councilor Shelton was uncomfortable with a percentage being granted because of the lack of City oversight. Mayor Andrews was hesitant to make this into a law by ordinance or resolution and suggested the idea of a performance agreement. Councilor Rierson felt there should at least be a minimum amount set so the Chamber can do their budgeting. Staff will return with a formal agenda item at a later date, including the Chamber representatives for their input.

Councilor Rierson gave updates on upcoming Newberg Animal Shelter Friends subcommittee meeting on May 12, 2010, to discuss the 30% completion of the CM/GC contract.

Mayor Andrews recessed at 8:30 PM prior to opening the Executive Session.

IX. EXECUTIVE SESSION

Executive Session pursuant to ORS 192.660(2)(I) relating to performance review of the city manager.

TIME – 8:37 PM


X. ADJOURNMENT

The meeting adjourned at 9:14PM.

ADOPTED by the Newberg City Council this 7th day of June, 2010.


Daniel Danicic, City Recorder

ATTEST by the Mayor this 9th day of June, 2010.


Bob Andrews, Mayor